

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zev Carter	Team: Squad #3	CCRB Case #: 202004871	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 06/01/2020 11:57 PM	Location of Incident: In front of 109 East 59th Street	Precinct: 19	18 Mo. SOL 12/1/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 07/07/2020 6:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 07/07/2020 6:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM James Marcinek	20371	940419	030 PCT
2. POM Tythe Gladden	28522	940194	030 PCT
3. SGT Carlos Barahona	4019	938023	030 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Nadyne Dimmie	30855	968378	030 PCT
2. POM Alvin Joseph	03186	965764	030 PCT
3. POM Andres Ruiz	03569	965853	030 PCT
4. POM Rafael Melendez	30529	965332	030 PCT
5. DI Lourdes Soto	00000	924829	PBMN
6. POM Franco Quayle	08306	942388	030 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Carlos Barahona	Force: Sergeant Carlos Barahona used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 7, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On June 1, 2020, at 11:57 p.m., § 87(2)(b) was in a protest march in the vicinity of 109 East 59th Street in Manhattan. Officers from multiple commands were present, including Sergeant Carlos Barahona and Police Officers Nadye Dimmie, James Marcinek, Tythe Gladden, and Franco Quayle, all from the 30th Precinct. Sgt. Barahona pulled § 87(2)(b) by his shirt (**Allegation A: Force, § 87(2)(g)**). Unidentified officers allegedly punched § 87(2)(b) all over his body (**Allegation B: Force, § 87(2)(g)**). Unidentified officers pushed § 87(2)(b) to the ground (**Allegation C: Force, § 87(2)(g)**). § 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Dimmie issued § 87(2)(b) criminal court summons #§ 87(2)(b) for disobeying curfew. § 87(2)(b) sustained contusions on his head, shoulder, nose, knees and thigh; swelling on his face and nose; redness on his collarbone, forehead, and right shoulder; and pain on his head, shoulder, nose, arms, knees, thigh and wrists as a result of this incident.

This case contains BWC video footage from PO Marcinek, PO Dimmie, and PO Gladden (**01 Board Review**) and security video footage from 505 Park Avenue in Manhattan (**02 Board Review**).

Findings and Recommendations

Allegation (A) Force: Sergeant Carlos Barahona used physical force against § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Force: Officers used physical force against § 87(2)(b)

The following facts are undisputed: On June 1, 2020, New York City Mayor Bill de Blasio established a citywide curfew starting at 11:00 p.m. and ending the next day at 5:00 a.m. Deputy Inspector Lourdes Soto of the 30th Precinct was in command of a small detail of officers from the 30th Precinct who were mobilized to deal with citywide protests. At approximately 11:57 p.m., § 87(2)(b) and numerous others were protesting walking along 59th Street in Manhattan. Near the intersection of 59th Street and Park Avenue, Deputy Inspector Soto ordered officers to make arrests for curfew violation. The group of protestors, including § 87(2)(b) started running away from the officers. Sgt. Barahona, PO Marcinek, and PO Gladden followed. When Sgt. Barahona caught up to § 87(2)(b) both of them fell to the ground.

In his statements to the CCRB, § 87(2)(b) stated that on June 1, 2020, he and his friend § 87(2)(b) participated in a protest march that began in lower Manhattan and traveled uptown over time (**03-05 Board Review**). From time to time, officers would close in on protestors and arrest them. At approximately 11:30 p.m., § 87(2)(b) was near 109 East 59th Street when he saw other protestors running in panic and began to run too. § 87(2)(b) felt an officer whom he could not describe grab his shirt from behind, ripping it, and he fell to his hands and knees. § 87(2)(b) attempted to stand up as officers whom he could not describe punched him all around his body. § 87(2)(b) did not know that it was police officers who had stopped him, so he put his head down, put his hands together over his face, and made fast movements to get the officers' hands off of him and block their punches. Officers whom § 87(2)(b) could not describe pushed him to his stomach to the ground and his head hit the ground twice. Officers were not

touching § 87(2)(b)'s head when it hit the ground. Officers handcuffed § 87(2)(b) while he was on his stomach and eventually brought him to the 19th Precinct stationhouse, where he was issued a summons. He became acquainted with another person who was detained at the location named § 87(2)(b). As a result of hitting the ground, § 87(2)(b) suffered contusions on his head, shoulder, nose, knees, and thigh, swelling to his face and nose, and redness on his collarbone, forehead, and right shoulder.

On § 87(2)(b), § 87(2)(b) went to a § 87(2)(b) § in Manhattan because he wanted to know whether he was injured **(07 Board Review)**. § 87(2)(b) provided a summary of this visit that the clinic provided to him. According to the summary, X-rays showed no acute fractures. § 87(2)(b) was prescribed a muscle relaxant and a pain reliever and diagnosed with contusions to his right shoulder, elbow, forehead, and knee. § 87(2)(b)'s mother took photographs of his injuries approximately one week after the incident **(08 Board Review)**. The photographs show the following injuries on § 87(2)(b)'s body: redness and swelling on the nose, right cheek, and upper forehead; a contusion and redness on the right shoulder; abrasions on the right elbow and forearm; a contusion and redness on the right knee; contusions on the left forearm and elbow; and a contusion on the left thigh.

In his phone statement to the CCRB, § 87(2)(b) stated that once officers started to make arrests, he continued to run with the crowd and lost track of § 87(2)(b) **(05 Board Review)**. He did not see what happened to § 87(2)(b) and did not hear from him until he was released later that night. In an unsworn statement, § 87(2)(b) stated that she saw § 87(2)(b) for the first time after he had already been handcuffed **(06 Board Review)**. She did not see officers use force against § 87(2)(b). PO Andres Ruiz of the 30th Precinct issued a summons to an individual named § 87(2)(b) with the same date, time, and location as § 87(2)(b)'s summons **(31 Board Review)**. § 87(2)(b) was unavailable to the investigation after contact attempts (see IA #303).

In his CCRB interview, Sgt. Barahona stated that on the night of the incident, he was monitoring a large group of protestors along with other officers in a detail from the 30th Precinct when their supervisor and commanding officer, Deputy Inspector Soto, told them to arrest protestors **(09 Board Review)**. The crowd, including § 87(2)(b) started to run, and Sgt. Barahona ran after them. He grabbed § 87(2)(b) on an unknown place on his body and both accidentally fell to the ground, stomach-down. Sgt. Barahona was not sure why the two fell to the ground other than the fact that they were both running. Sgt. Barahona was “not sure” whether he held onto § 87(2)(b)'s shirt at this time. Once on the ground, § 87(2)(b) twisted his body. Each time Sgt. Barahona tried to hold onto one of § 87(2)(b)'s arms, he moved his arm away. Sgt. Barahona did not think that § 87(2)(b) ever got up off his stomach during that time. Other officers assisted Sgt. Barahona, but he could not identify them. Sgt. Barahona denied making physical contact with § 87(2)(b) apart from on his arm, and he denied that he or any other officer punched § 87(2)(b).

In his CCRB interview, PO Marcinek stated that he saw Sgt. Barahona run into the crowd of protestors toward something he could not see for himself **(10 Board Review)**. PO Marcinek followed Sgt. Barahona and was running behind him when he saw § 87(2)(b) fall to the ground stomach-down. Sgt. Barahona tripped over § 87(2)(b) and fell on top or to the side of § 87(2)(b). PO Marcinek did not know how § 87(2)(b) went to the ground initially and he did not see Sgt. Barahona pull § 87(2)(b) backward by his clothing. PO Marcinek held onto § 87(2)(b)'s wrist while § 87(2)(b) pulled his arms away, and then put handcuffs on § 87(2)(b). Other officers were assisting Sgt. Barahona and PO Marcinek, but PO Marcinek could not recall who they were. PO Marcinek denied punching § 87(2)(b).

In his CCRB interview, PO Gladden stated that after Deputy Inspector Soto gave the orders to arrest people at the rear of the crowd, he and other officers ran toward it (**11 Board Review**). PO Gladden did not see § 87(2)(b) until he was already on the ground. § 87(2)(b) was face-down on the ground rolling his body from side to side and attempting to get to his feet. PO Gladden held onto § 87(2)(b)'s left wrist and elbow and put his left arm behind his back while PO Marcinek brought § 87(2)(b)'s right arm behind his back and handcuffed him. He made no additional physical contact with § 87(2)(b).

In his CCRB interview, PO Quayle stated that he was on the detail from the 30th Precinct and was present when Deputy Inspector Soto ordered officers to make arrests, but he did not see officers stop § 87(2)(b) because he was focused on another defendant, whom he had found zip tied in the area (**12 Board Review**). In her CCRB interview, PO Dimmie stated that she was not focused on § 87(2)(b)'s arrest because her attention was directed at another person (**13 Board Review**). She saw § 87(2)(b) on his stomach moving around as officers told him to “stop resisting.” She could not remember which officers were dealing with § 87(2)(b) or how they eventually controlled him.

PO Marcinek's BWC footage in IA #52, starting at 0:44 seconds in the recording, shows PO Marcinek following Sgt. Barahona as he runs into the crowd of protestors (**01 Board Review**). At 0:50 seconds, Sgt. Barahona catches up with § 87(2)(b) goes to the ground, but how he does so is not clear due to poor lighting and motion blur. At 0:52 seconds, § 87(2)(b) is in a kneeling position, and steps to his feet, lunging forward and thrusting his arms in front of him. Sgt. Barahona is holding onto § 87(2)(b)'s overshirt, which comes off § 87(2)(b)'s torso as he moves. The camera's view is obstructed briefly as PO Marcinek joins Sgt. Barahona and shows that at 0:57 seconds, § 87(2)(b)'s head is face-down on the sidewalk and his right arm hand is above his head. The camera's view is obscured again. At 1:10 minute, an officer with the shield number 16315 kneels over § 87(2)(b). PO Marcinek steps away and § 87(2)(b) is out of frame again until 1:16 minute, when an officer starts to handcuff his left wrist. Immediately after, § 87(2)(b) starts to get to his feet before officers whose faces, shield numbers, nametags, commands, and faces are not visible push him back down to the ground on his right side. PO Marcinek is holding on to § 87(2)(b)'s left hand with his own left hand, and his right hand is holding handcuffs at the time officers push § 87(2)(b) to the ground. PO Gladden and PO Marcinek help § 87(2)(b) to his feet shortly thereafter.

PO Gladden's BWC recording does not start until after § 87(2)(b) has been handcuffed (**01 Board Review**). PO Dimmie's BWC recording does not start until she and other officers are transporting § 87(2)(b) and other defendants to the 19th Precinct stationhouse in a police van.

Patrol Borough Manhattan North did not have detail memoranda, zone/sector/post maps, detail rosters, or an unusual occurrence report on file for protests that took place the night of June 1, 2020 (**14 Board Review**). Patrol Borough Manhattan South did not prepare any detail rosters for posts in the vicinity of this incident location or including officers from the 30th Precinct (**15 Board Review**). The 30th Precinct Command Log for Tour 3 of June 1, 2020 and Tour 1 of June 2, 2020 does not contain a list of the officers from the 30th Precinct who were mobilized for a protest detail (**16 Board Review**). The 30th Precinct Roll Call for Tour 3 of June 1, 2020 and Tour 1 of June 2, 2020 do not list any officers working an overtime detail (**32, 17 Board Review**).

Sgt. Barahona, PO Marcinek, PO Gladden, PO Quayle, and PO Dimmie stated that Deputy Inspector Soto, PO Alvin Joseph, PO Rafael Melendez, and PO Ruiz were also on the detail from the 30th Precinct (**09-13 Board Review**). According to the CCRB CTS database, PO Quayle and PO Marcinek are the only identified officers who are white men. The CCRB CTS officer database

shows that shield number 16315 most recently belonged to PO Michael Farinaccio of the 19th Precinct, who is listed as “inactive” as of January 4, 2021.

Stationary security video from 505 Park Avenue, which is located at the incident location, captures the time period during which this incident occurred, but not the actions that § 87(2)(b) alleged (**02 Board Review**). Starting at 00:08:40 in the time stamp, the video shows numerous pedestrians running along 59th Street, followed by approximately two dozen police officers and ten police vehicles.

A threat resistance and injury (TRI) report was not created regarding this incident (**30 Board Review**).

§ 87(2)(g)

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§ 87(2)(g)

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§ 87(2)(g)

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§ 87(4-b), § 87(2)(g) -
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Civilian and Officer CCRB Histories

